

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jan 31, 2024

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

TRAVIS LEE DAMMARELL,
Plaintiff,

v.

COYOTE RIDGE CORRECTIONS,
BENTON COUNTY JAIL/WORK
RELEASE, and YAKIMA
COUNTY JAIL,
Defendants.

No. 1:23-CV-03146-SAB

ORDER DISMISSING ACTION

By Order filed December 26, 2023, the Court granted Plaintiff a second opportunity to amend or voluntarily dismiss his complaint. ECF No. 8. Plaintiff, a pretrial detainee at the Yakima County Jail, is proceeding *pro se* and *in forma pauperis*. Defendants have not been served. Plaintiff did not comply with the Court's Order and has filed nothing further in this action.

Liberally construing the First Amended Complaint, ECF No. 7, in the light most favorable to Plaintiff, it fails to cure the deficiencies of the initial complaint and does not state a claim upon which relief may be granted. Specifically, Plaintiff failed to present any facts supporting a reasonable inference that any person amenable to suit under 42 U.S.C. § 1983 made an intentional decision to place

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1 Plaintiff in conditions that put him at risk of suffering serious harm. *See Gordon v.*
2 *Cnty. of Orange*, 888 F.3d 1118, 1125 (9th Cir. 2018).

3 The Court cautioned Plaintiff that if he failed to amend within 30 days as
4 directed, the Court would dismiss this action for failure to state a claim under 28
5 U.S.C. §§ 1915(e)(2) and 1915A(b)(1). ECF No. 8 at 10. In the alternative, the
6 Court granted Plaintiff the opportunity to voluntarily dismiss this action. Plaintiff
7 did not avail himself of this opportunity.

8 For the reasons set forth above, and in the Second Order to Amend or
9 Voluntarily Dismiss Complaint, ECF No. 8, Plaintiff's First Amended Complaint,
10 ECF No. 7 is **DISMISSED** without prejudice for failure to state a claim against
11 Defendants upon which relief may be granted. 28 U.S.C. §§ 1915A(b)(1) and
12 1915(e)(2).

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Accordingly, **IT IS HEREBY ORDERED:**

1. Plaintiff's First Amended Complaint, **ECF No. 7**, is **DISMISSED** for failure to state a claim upon which relief may be granted under 28 U.S.C. §§ 1915A(b)(1) and 1915(e)(2), but **without prejudice** to Plaintiff pursuing appropriate state appellate and federal habeas relief.

2. Based on this Court's reading of *Washington v. Los Angeles Cnty. Sheriff's Dep't*, 833 F.3d 1048 (9th Cir. 2016), this dismissal will **NOT** count as a "strike" pursuant to 28 U.S.C. § 1915(g).

3. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of this Order would not be taken in good faith.

IT IS SO ORDERED. The Clerk of Court is directed to enter this Order, enter judgment, provide copies to Plaintiff and **CLOSE** the file.



Stanley A. Bastian

Stanley A. Bastian
Chief United States District Judge